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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

UNIVERSITY OF UTAH,
UNIVERSITY HEALTHCARE

Plaintiff,

v.

CABINETEC, INC, a Nevada Corporation,
CABINETEC HEALTH AND DENTAL PLAN, an
ERISA governed health plan, AND GREAT-WEST
LIFE AND ANNUITY INSURANCE COMPANY, a
Colorado Corporation

Defendants.

GREAT-WEST LIFE AND ANNUITY
INSURANCE COMPANY, a Colorado corporation,
Cross- Complainant and Third
Party Plaintiff,

v

CABINETEC, INC, a Nevada Corporation, and
CABINETEC HEALTH AND DENTAL PLAN, an
ERISA governed health plan,

Cross-Complaint Defendants

and

UNITED RESOURCE NETWORKS, a Delaware
corporation, and OPTUMHEALTH, INC., a
Delaware Corporation

PLAINTIFF'S RESPONSE TO GREAT-
WEST'S MOTION TO DISMISS CROSS-
CLAIM OF CABINETEC, INC. OR
ALTERNATIVELY FOR SUMMARY
JUDGMENT MOTION TO DISMISS

Civil No: 2:09-cv-37

Judge: Clark Waddoups
[Filed Electronically]

Plaintiff, University of Utah, University Healthcare (“UUHC”), through its counsel of record, hereby responds to the “Motion to Dismiss Cross-Claim of Cabinetec, Inc. or Alternatively for Summary Judgment By Great-West Life and Annuity Insurance Company.”

The Motion to Dismiss/Motion for Summary Judgment filed by the Defendant, Great-West, seeks to Dismiss the Cross-Claims made by the Defendant, Cabinetec. Accordingly, because UUHC is not named as a party to Great-West’s Motion, UUHC does not believe that it need file a response to the legal claims made in Great-West’s Motion. If the Court would like UUHC to respond to any of the claims made in the Defendant’s Motion UUHC would file such a response as directed by the Court

UUHC, however, disputes a fact contained in Paragraph 12 of Great-West’s “Memorandum in Support of Motion to Dismiss Cross-Claim of Cabinetec, Inc. or Alternatively For Summary Judgment.” Paragraph 12 states that “Great-West did not receive any claim related to Baldwin from either UUHC or URN until on or about May 30, 2006.” However, Great-West made partial payment on UUHC’s claims relating to Mr. Baldwin.

On or about November 30, 2005, Great-West sent four Explanation of Benefits to UUHC stating that it would pay \$2,445.12 for four of UUHC’s claims relating to Mr. Baldwin. Attached as Exhibit A are a true and correct copy of the Explanation of Benefits from Great-West. On or about December 22, 2005, Great-West paid UUHC \$2,445.12 for claims relating to Mr. Baldwin. *See:* Exhibit B, Affidavit of Lee Fobert (“Fobert Affidavit”), ¶4. In addition to the four Explanation of Benefits attached as Exhibit A, Great-West sent UUHC over 100 Explanation of Benefits dated as early as June 23, 2005 through December 28, 2005 denying

claims relating to Mr. Baldwin's care. Fobert Affidavit, ¶5. UUHC therefore disputes Great-West's allegation that it did not receive claims relating to Mr. Baldwin until May 2006.

Dated October 6, 2009

Mark L. Shurtleff
Attorney General

/s/ Julie Ewing
Julie Ewing
Assistant Attorney General
Attorneys for the Plaintiff
University of Utah, University Healthcare

CERTIFICATE OF SERVICE

The foregoing PLAINTIFF'S RESPONSE TO GREAT-WEST'S MOTION TO DISMISS CROSS-CLAIM OF CABINETEC, INC. OR ALTERNATIVELY FOR SUMMARY JUDGMENT MOTION TO DISMISS was served upon the following pursuant to the Court's ECF system on the 6TH day of October 2009:

Brian K. Bernard, Attorney for Great-West

Lewis P. Reece, Attorney for Cabinetec

Brent C. McDonald, Attorney for Cabinetec

Scott A. Hagen, Attorney for Optumhealth and United Resource Networks

/s/Julie Ewing

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